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THE RING FRAUDS.

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The Wayward Sisters Out of the Toils—Liberated, Rearrested and Reliberated—Brooklyn to the Rescue—Home Again.

THE FIRE ALARM TELEGRAPH

Cost of the Construction of the Fire-Alarm Telegraph—Refusal to Pay the Bill—Mandamus Issued Against the Comptroller—The Bill Ordered To Be Paid.

BUSINESS IN THE OTHER COURTS.

Summaries—King and Scannell Arraigned and Days Fixed for Their Trial—Convictions and Sentences in the General Sessions—Decisions.

Yesterday the Woodhull and Claflin sisters, who are under indictment in the United States Courts for sending a scandalous and immoral publication through the mail, entered into bail, before Commissioner Shields, in the sum of $8,000 each, and were discharged from custody after they had given bail in other suits in the State Courts for libel against Mr. Luther C. Challis.

Ex-Senator William M. Graham was brought before Commissioner Osborn yesterday and charged with having, while acting as President of the Wallkill National Bank, of Middletown, Orange county, embezzled $100,000, the property of the stockholders of that institution and of other persons. He was committed in default of $20,000 bail for examination to-day. Charles H. Horton, the cashier of the bank, was included in this charge; but he has not been arrested, and the belief is that he has left the country.

Yesterday the case of Frederick Mayer, appellant, vs. Moses S. Herman, assignee in bankruptcy of Maurice Bendix, Caroline M. Reichman and Rudolph Reichman, bankrupts, respondents, was argued before Judge Woodruff, in the United States Circuit Court. It was an appeal from a decision on a bill in equity, by Judge Blatchford, regarding certain suits brought in the Marine Court by Mayer against Reichman & Co., on which he recovered judgments and on which executions were issued. Judge Blatchford dismissed the bill and decreed that the defendant recover against the plaintiff the costs of the action. On the hearing of the appeal the decision of the Court below was affirmed.

Governor Hoffman has consented to hear at half-past eight o'clock this morning, at the Clarendon House, argument of counsel upon the application for a stay of proceedings in the case of Henry Rogers, convicted in Kings county of the murder of Policeman Donohue and sentenced to be hanged on next Friday.

All the State Courts adjourned over to-day out of respect to the memory of Horace Greeley. The adjournments were by the voluntary orders of the Judges, except in Supreme Court, Chambers, where a motion was made to this effect. Mr. Sewell, who made the motion, accompanied the same by some feeling remarks. The motion was seconded by ex-Judge Peabody in a brief and touching speech, and followed by Judge Leonard, who pronounced a short, but deeply affecting eulogium upon the character of the deceased.

Judge Brady, of the Supreme Court, yesterday granted a peremptory writ of mandamus against the Comptroller directing payment of the amount still due for the construction of the fire alarm telegraph. The original claim was $402,500, of which $250,000 has been paid. The mandamus granted calls for the payment of $194,389 61, which includes interest.

A large number of cases were disposed of yesterday in the General Sessions. A Broadway pickpocket, who gave his name as John Smith, was sent to the State Prison for five years. Albert C. Oatman, the keeper of a "club" house in Broadway, was convicted of an assault with intent to do bodily harm to Michael Mahoney, and was remanded for sentence. The Court adjourned till Thursday out of respect to the memory of Horace Greeley.

THE OLD TAMMANY RING FRAUDS.

Another Day of Legal Fabian Tactics—The Ex-Boss in Court—Array of Counsel—More Dilatory Motions—No Arraignment and a Further Postponement.

As predicted in the HERALD of Monday, under the head of "The Tweed Case," further dilatory motions in the Court of Oyer and Terminer have followed the proceedings in this case. At an early hour yesterday the court room was thronged with a pressing crowd, who were only kept in order and in their proper places through the exertions of an extra number of court officers. The fact that the great ex-Boss Tweed was supposed to be at last brought to bay, and that he must plead to the arraignment against him, was sufficient in itself to crowd the court room, and during the early proceedings more than half a dozen of the audience exchanged remarks to the effect that the "Boss can draw a big house." But after all, he was not brought to bay. The Boss, like the hunted stag in the "Lady of the Lake," when the law pursued him in the person of Wheeler H. Peckham, prosecuting attorney,

> With ready arm and weapon bared,
> The wily quarry shuns the shock,
> And turns him from the opposing rock;

so the wily Boss, through his counsel, breaks through the law and the arguments of Peckham, and, like the old Irish counsellor, O'Connell, proclaims in fact that no Grand Jury that ever lived could frame an indictment through which he could not drive a coach and four or an old "Big Six" engine.

At the opening of the Court of Oyer and Terminer yesterday, after the arraignment of Scannell for the murder of Donahoe, and King, the lawyer, for the murder of O'Neil—whose trials are set down in succession at an early day—the case of The People vs. William M. Tweed was called on.

There was a considerable stir with gathering interest, excited among the spectators that crowded the court room when the name of Tweed was mentioned, showing that, although many friends of the two persons so seriously charged and whose liberties are so imminently threatened might be present, public curiosity and interest were all enlisted in the case of Tweed. The Knights of the Bar were, of course, all on hand. In the words of the "Boss" himself, "This is a big thing;" and where the carcass is, there will the vultures be gathered together; and, sure enough, from the gentleman in the big wig to the yet unripe "Bartlett" that read a preliminary paper or two, the counsel for Tweed were all on hand. The prosecuting counsel, headed by Assistant District Attorney Sullivan, were also on hand, and when Mr. Spark, Clerk of the Court, cried out:—"Gentlemen, time, go off," counsel with the big wig went off at half cock, as usual, but as a preliminary.

Mr. Sullivan rose and said he had in his hand an indictment (the book indictment) filed in October last, and now moved that

MR. WILLIAM M. TWEED BE ARRAIGNED UPON IT.

Counsel, after an allusion to an excitement which, he said, he had seen among the counsel for the prosecution, said they had resolved to move to quash the indictment. He would first read the affidavit of Mr. Tweed. The affidavit recites the chronology of the indictment and states, from the minutes of the Grand Jury, that it is entered there as signing bills knowing them to be frauds; that Wheeler H. Peckham was present in the Grand Jury room. Counsel here alluded to the fact that private counsel were permitted to come in, and that Mr. Tweed's case was not left, as usual, entirely to the District Attorney. The affidavit further stated that the fact had been stated before Judge Brady on the 10th of October, and had not been denied, that there were two indictments found by that Grand Jury, one on the 9th, the other on the 15th of October last, the latter intended to cure a vice in the former indictment. That on this last the persons named as witnesses were not all examined. The vice in this former indictment was the presence of an unauthorized person in the Grand Jury room, and the second indictment was made after Judge Brady's remarks on the 10th in regard to it. Mr. Tweed's affidavit continues that the two indictments of the 9th of October are identical with those found on the 15th. The evidence on which the latter indictment was found was a simply a reaffirmation by five of the seven counts of the then previous testimony elicited by Mr. Peckham. It charges in addition that the original indictment was made "on complaint of Wheeler H. Peckham," but that, in Mr. Peckham's place, the second set of indictments substitutes a fictitious John Brown, so as to shield Mr. Peckham. He says, further, that he has never had the advantages of an examination before a magistrate.

Mr. Bartlett then read an affidavit of Mr. Dewey as to the contents of the Grand Jury minutes.

IN REPLY,

Mr. Peckham said that most of the facts stated in Mr. Tweed's affidavit were not denied, but in anticipation of this affidavit he had prepared a brief affidavit in reply to some points in it. In it he recites the trial of Mayor Hall last Spring. After its end the Attorney General requested him to prepare and present indictments against the accused which should avoid the difficulties found in the Hall trial. That at the request of the Attorney General and the District Attorney he did appear before the Grand Jury, and examined witnesses before them, but the only advice he gave them was to act quickly and that he was not present at their consultations, but that afterwards, hearing some question was raised, he suggested that to avoid captious objections the whole matter be acted on by the Grand Jury *de novo*. He was not personally acquainted with Mr. Tweed, and had no relations with him except in these suits.

At this point a long argument ensued between counsel as to the advisability of newspaper publications in evidence, and the reasons of the defence for introducing such a line of argument, Justice Ingraham ultimately reserving the decision of the question until he has had further time for consideration.

Counsel for the defence began his argument, claiming that it was not denied that John Brown was a mere figment of the brain, got up to cover and hide a criminal proceeding on the part of the Grand Jury or some one else. It was not denied that half or two-thirds of the indictment was not sustained by any evidence. The Grand Jury was a substantive protection to the accused. The State and United States constitutions had affirmed the right. But it was said that the action of the Grand Jury was irresponsible. He would rather be at the mercy of King and Scannel, to-day brought before the Court, than at the mercy of those who would assert such a doctrine. The indictment could not be presented to the Court until signed by the District Attorney; it was a misdemeanor to reveal the names of those indicted to any one but the District Attorney till the party accused was under arrest. So Mr. Peckham, when he sent in these indictments, was guilty of a misdemeanor. But he claimed that Mr. Peckham showed that the indictments were prepared before there was any evidence; he was hired to prepare them months before it was empanelled. He went before it to explain the indictment—the indictment not yet found—and he says in his affidavit he did explain it to them; that is, he instructed them. But where was Mr. Garvin's affidavit as to what took place between him and the Grand Jury?

His associate, Mr. Fullerton, suggested to him to say that if Mr. Peckham was by the appointment of the Attorney General a public officer *pro hac vice*, then he should have taken an oath of office. If the Court had any doubt it could subpœna the grand jurors and examine them. Counsel read at some length from an old English book as to the secrets which grand jurors were not allowed to reveal, and continued:—But if the motion were denied in whole, at least the counts relating to transactions with Ingersoll, McB. Davidson and others should be stricken out, as no evidence was given on them to the Grand Jury on the later indictments. But as to the substance of the indictment itself he claimed it was vicious. There were two sets of counts. Some forty of them were founded on vouchers still existing. Some one hundred and eighty on vouchers alleged to be lost or destroyed by a burglary. On each voucher lost or not lost four counts were predicated. The first of the four was for a neglect by Mr. Tweed, Mr. Hall and Mr. Connolly to audit. The second count was for certifying to the audit of a claim which they had not audited, and which was false, fraudulent and fictitious. The third count charges that a partly false and fraudulent claim, known to them to be false, was allowed by them, and that this, as in the second count, was a wilful neglect to audit. In each they attempted to turn an affirmative into a negative act. In the fourth or common law count they had charged that the defendant, with the others, had wilfully made a certificate on which money was falsely drawn from the city. The Comptroller, they charged, was a guilty participator in this certificate on which he drew the pay. Thus, in their eagerness they had combined a charge of larceny with a charge of misdemeanor. Non-feasance was the non-performance of an act positively enjoined by law, and must be wilful and intentional; malfeasance, the doing of an act positively prohibited: malfeasance, the appearance of doing an act without doing it. Under the Board of Audit act the Court would see that the auditing and the certificate of a claim were distinct acts. The statute did not say how they were to audit. They could adopt the mode of audit they pleased. Judge Brady had erroneously accepted in Mayor Hall's case an erroneous definition of the term "audit"—viz., "examine into, settle and allow." The word meant nothing of the kind. If the Legislature meant to prescribe an examination of any specific kind on this Board they would have said so. But this indictment charged two crimes entirely distinct—the violation of a judicial duty, auditing, and the violation of a ministerial duty, certifying—in each of the counts. Besides, the counts charged a positive act of misfeasance, and then resolved it into simple non-act. But the second, third and fourth counts were bad, because in them the Comptroller was declared to be a party to the guilty audit, and to have paid on such guilty audit. He should submit that the indictment could only be maintained on the ground that Connolly innocently paid these vouchers. He went further than the indictment—if these three men issued these three certificates they made false token and were forgers. And so, in their efforts to get in this payment, they had buried the head of their indictment in a cloud of felony. But, besides, it did not say that Mr. Connolly paid the money out of the county funds, *non constat*, but that he paid them out of his pocket. The indictment was therefore void for indefiniteness. The Court could presume nothing, except in favor of innocence. The third count was one charging them with auditing and certifying a claim partially false, but it did not show wherever it was false. Was that sufficient certainty? He quoted cases to show in what way the falsity occurred. The Court then, after consultation among counsel, most of whom desired to attend Mr. Greeley's funeral, was adjourned to Thursday.

THE WALLKILL BANK DEFALCATION.

Arrest of the President, Ex-Senator William M. Graham—Alleged Flight of the Cashier—Graham Held in $20,000 Bail for Examination To-Day.

Considerable excitement was experienced some time since in commercial and monetary circles when it became known that there had been a defalcation in the Wallkill National Bank, of Middletown, Orange county, to the extent of $100,000.

On the 3d of November last one of the directors of the bank, Mr. Avery A. Bromley, went before Commissioner Osborn and requested that magistrate to issue a warrant for the arrest of Mr. Graham and also Charles H. Horton, the cashier of the bank. Mr. Bromley informed the magistrate that he, with other members of the Board of Direction, had spent twelve or fourteen days in looking into and investigating the affairs and accounts of the bank; that they had discovered a defalcation to the extent of $100,000, and that they believed the President and the Cashier to be responsible for the amount of money thus unaccounted for.

MR. BROMLEY'S AFFIDAVIT.

Mr. Bromley made an affidavit in which he states that he resides in Middletown, and is in the furnishing goods business at that place, and also a director of the Wallkill National Bank, located at Middletown, and carrying on its operations there; that on information and belief and from personal examination of the books made by the Board of Directors at different times from the 25th of November, 1870, up to the 26th of November, 1872, William Moffat Graham, President of the bank, and Charles H. Horton, Cashier, did embezzle, abstract, or wilfully misapply the moneys, funds or credit of the bank to the extent of $100,000, and made false entries in their reports or statements of the association with intent to defraud the directors and stockholders of the institution and other persons.

On this affidavit a warrant was issued, and it was entrusted to Deputy Marshal Kehoe for execution. The deputy proceeded to Middletown, where he had no trouble in finding Mr. Graham, whom he arrested and conveyed to this city on Monday night. Being unwell, Mr. Graham was taken to the St. Clair House, and yesterday, having got better, he was brought before Commissioner Osborn. Horton, the Cashier, has not been found, and it is said that he has fled the country. When the case was called on Mr. A. H. Purdy appeared for the government and Mr. Charles S. Spencer for the defendant.

Mr. Spencer made a lengthened address, in moving for a dismissal of the complaint, on the ground that no warrant ought to be issued for the arrest of any person on an affidavit on mere information and belief. He stated that in the State Courts all complaints on information and belief were dismissed on certiorari as complaints entirely improper to be made. He characterized the whole case as an attempt at blackmailing, and contended that it ought to be dismissed, as he believed his client to be entirely innocent. Mr. Purdy, for the government, held that there was good reason for issuing the warrant on the affidavit in question.

Commissioner Osborn said he was responsible for what he had done in issuing the warrant. He denied the motion to dismiss the complaint.

Mr. Spencer then demanded an immediate examination of the defendant.

After some discussion the Commissioner adjourned the case until this morning, when the examination will be gone into. The defendant, in default of $20,000 bail, was committed to Ludlow Street Jail. It is understood that he can procure the amount of bail, if he be afforded an opportunity of obtaining it, which, of course, he will be.

HENRY ROGERS, THE CONVICTED MURDERER.

The Motion for a Stay of Proceedings Denied—The Motion To Be Presented Before Another Judge—Little Hope for Rogers—Appeal To Be Made to the Governor.

On Saturday last, as will be remembered, there was a lengthy argument before Judge Fancher, in Supreme Court Chambers, upon an application for a stay of proceedings in the case of Henry Rogers, convicted in Kings county of the murder of Officer Donohue, of the Brooklyn police, and sentenced to be hanged on next Friday. The Judge yesterday gave his decision in the case. He denies the application, and, as will be seen in the abstract given below of his opinion, fully sustains the rulings and charge of Judge Gilbert, before whom Rogers was tried.

ABSTRACT OF THE OPINION.

After briefly stating the facts of the case, including the statement that unless a writ of error be allowed the prisoner cannot live until a review of the several questions raised on the trial shall be had before the General Term of the Supreme Court, he says that a writ of error is not a right in such a case. This, he proceeds to say, can only be allowed upon notice to the Attorney General or to the District Attorney of the county where the conviction was had; and if then, on an examination of the case, there does not appear probable error sufficient to induce an Appellate Court to review the judgment, the writ should be refused. At the same time, according to practice, any Justice of the Supreme Court may allow the writ, and without regard to the fact that an application for it has been denied by another Justice of the Court. He had been called upon to perform an unpleasant duty, but for all this the merits of the application must be examined. It had been said by Chancellor Walworth and other learned judges that before allowing a writ of error the judge should be satisfied that there is probable cause to believe that error occurred on the trial sufficient to induce the Appellate Court to reverse the judgment. After this preface he took the grounds of error seriatim. As to the intent of the Legislature in allowing a person accused of crime to be a witness in his own behalf he could find no substantial error in the charge of Judge Gilbert. All the Judge told the jury was that it was the privilege of prisoners to give on the stand their version of the facts, and that it was for the jury to say what credence should be given to the statement. This was held to be the intent of the Legislature. Regarding the intention of Rogers when he struck the blow Judge Gilbert charged that it was not necessary that an assailant should go through a process of ratiocination on the subject, but it was enough that he intended to inflict the blow and that it resulted in death. He held that the Judge's charge in this regard fully corresponds with the tenor of many decisions touching the

QUESTION OF PREMEDITATION.

He could not see how the Judge could have charged on this point more appropriately than he did. As to the alleged intoxication of Rogers, he held that there was abundant evidence to show that the mind of the prisoner at the time of the homicide was neither destroyed nor eclipsed by intoxication. He reviews the facts of the homicide, including the laying in wait of the prisoner with a club in his hand for Donohoe and his threats to "lay him out," and holds that on these facts and on the version of his own conduct, as given by the prisoner himself, there was no room for the Judge to give a more favorable charge touching

THE PRISONER'S INTOXICATION

or the effect of it or his intent than he did. The next point considered was the alleged error of Judge Gilbert in characterizing the homicide as an atrocious and unprovoked murder. He held that this was only the opinion of the Judge, guarded and qualified by the remark that the jury were to determine, and not the Court, whether the case was one of unprovoked and atrocious murder. He declared further that Judge Gilbert, with great clearness and precision, instructed the jury what constituted the crime of murder in the first degree and what were the distinguishing elements of the crime of manslaughter. After upholding Judge Gilbert upon the point of Rogers being guilty of murder, although aided by others in the murderous assault, he takes up the subject of the

REQUESTS TO CHANGE.

He holds that all the substantial points of the propositions are covered in the charge. He also fails to find anything in the objections to the rulings of the Court respecting the evidence which, in his judgment, should induce an Appellate Court to reverse the conviction. He says in conclusion that it would be a reproach to the administration of justice if such an enormous crime should not be avenged—an offence against God and man. Rogers had had a fair and properly conducted trial, and had been found guilty of murder. The impending punishment of the law should not be stayed. He saw no ground for believing an Appellate Court would grant a new trial, and, terrible as were the consequences to the prisoner, he could not grant the application for a stay.

This morning counsel for the prisoner (Rogers) will be granted a hearing by Governor Hoffman at the Clarendon Hotel, when such representations will be made in the case as may be best considered worthy of the Governor's consideration for a recommendation to the courts for a new trial in the case.

WOODHULL-CLAFLIN BAILED.

The Wayward Sisters Again at Liberty—Bailed, Arrested and Rebailed—Home Again.

Yesterday quite a number of persons assembled in the office of Commissioner Shields to have a look at the extraordinary pair of women, Woodhull and Claflin, who had come down from the jail of Ludlow street to sign the bail bonds which had been ready for their signature since Saturday last. As will be remembered, these women are charged with sending an obscene publication through the mail; and upon this charge Mr. James Keenan and Dr. Augustus D. Ruggles, of Brooklyn, expressed themselves as ready to become bondsmen for the appearance of the accused to take their trial.

When Woodhull and Claflin entered the court room there was a rush to see them. They do not appear to have suffered much by their imprisonment, though it is obvious a cell in a jail is not the kind of place they desire for a residence.

It was twelve o'clock when they entered court in charge of a deputy marshal.

Mr. De Kay represented the government, as counsel, and the accused also had legal assistance.

Commissioner Shields then presented the bail bonds to Woodhull and Claflin, who, having taken the usual oaths, signed the documents at once, whereupon they were discharged from the custody of the Marshal. They were, however, immediately placed under formal arrest by an officer from Jefferson Market Police Court, who held a warrant against them in a criminal action for alleged libel upon Mr. Luther C. Challis. But Judge Fowler, being present in Commissioner Shields' office, obviated the necessity of bringing the women to Jefferson Police Court, and the Judge took bail for them upon the last-named charge. They were then taken across the street to the Sheriff's office, where bail was accepted for them in the civil suit for libel instituted in the State Court at the instance of Mr. Challis.

The defendants are bailed in the United States Court in the sum of $8,000 each, to appear and take their trial when they shall be called upon to do so by the District Attorney, who, it is understood, is quite prepared to do his duty in respect to the indictment found against these women up to the full requirements of the law and justice of the matter.

THE FIRE-ALARM TELEGRAPH.

A Peremptory Writ of Mandamus Directing the Comptroller to Pay the Bill—Opinion of Judge Brady.

For some time—the facts of which have always been fully published in the HERALD—there has been a sharp legal controversy in the courts in regard to the payment of the bill for the construction of the fire-alarm telegraph in this city. The bill, as adjusted by the Commissioners of the Fire Department, amounted to $402,500, of which sum $250,000 was paid. The amount claimed, including interest, was $194,389 61. After various preliminary motions the matter was referred to ex-Judge Sutherland, who reported that the claim was a just and valid one. The Comptroller refusing the amount, application was made to Judge Brady, of the Supreme Court, for a peremptory writ of mandamus directing him to pay the same. Judge Brady yesterday gave his decision in the case, directing, as will be seen by his opinion given below, the writ to issue.

OPINION OF JUDGE BRADY.

The demand urged in this matter it is conceded is just. The evidence taken by the referee shows that it is meritorious and wholly free from suspicion, and there is, therefore, no reason why it should not be paid. It is claimed, however, that the interest added should not be allowed; but this view cannot be sustained. Chapter 465, Laws of 1871, provides for the payment of the amount, as adjusted and accepted by the Commissioners of the Fire Department, and it became the duty of the Comptroller to pay it in the matter decided. It was from the time of the adjustment a claim which was to be paid and for which provision has been made. It was like any other obligation from that time, and if payment was withheld the interest should be allowed. I think the referee's report should be accepted, as the basis of the order to be entered herein. Ordered accordingly.

BUSINESS IN THE OTHER COURTS.

COURT OF OYER AND TERMINER.

The King-O'Neil Murder—The Arraignment.

Before Judge Ingraham.

James C. King was arraigned yesterday for murder in the first degree in the shooting of Anthony O'Neil on the 18th November last at 42 Pine street, in this city. Mr. Vanderpoel urged that as he had had no opportunity to see the indictment and but a few moments' conversation with Mr. Beach, the matter should be allowed to stand over a day or two, during which they would arrange a date with the District Attorney.

The trial of the case was accordingly fixed for to-morrow morning.

The Scannell-Donahue Murder.

John Scannell was arraigned for murder in the first degree of Thomas Donahue on the 2d day of November last by shooting him with a pistol.

Counsel for the prisoner said that as one of the counsel with him in the case had since the opening of the Court been called away to Albany, under subpœna, to attend the Senate in the matter of Judge Curtis, he proposed that the time of this pleading should be postponed until they could have an opportunity of conferring together.

The case was then fixed for hearing on Thursday morning next.

SUPERIOR COURT—SPECIAL TERM.

Decision.

By Judge Barbour.

Thomas Rolin vs. Helen N. Anderson.—Motion for injunction must be denied, with $10 costs.

COMMON PLEAS—SPECIAL TERM.

Decisions.

By Judge Larremore.

Kelly vs. Mack.—Order settled and undertaking approved.

Bernstein vs. Rothschild.—Default opened on payment of costs of motion, costs of term and disbursements.

Dodge vs. Dodge.—Reference ordered.

Northumberland Fire Extinguisher Company vs. Henderson.—Reference ordered.

Ellis vs. Eisenfuher.—Order discharging undertaking and releasing sureties granted.

Davenport vs. Turner.—Motion granted.

Eagleson vs. Grey.—Judgment ordered.

Mausner vs. Gottel.—Affidavit of service of notice of application is defective.

By Judge J. F. Daly.

Emmons vs. Barnes.—Case settled.

Ross vs. Binnagel.—Motion denied.

Cowell vs. Skinner.—Motion granted.

Thurber vs. Burg.—Same.

Schindel vs. Schmidt.—Application denied.

Judd vs. Mittnacht.—Motion granted.

MARINE COURT—SPECIAL TERM AND CHAMBERS.

Decisions.

By Judge Tracy.

Caroline Gert vs. Anselm Pfeiffer.—Defendant may answer within five days.

John O. Matt vs. Michael Byrne.—Motion granted.

Alonzo L. Tuska vs. William Chrystal.—Motion to strike out answer denied.

Henry Perry vs. Larin T. Joslin.—Let this action be discontinued.

COURT OF GENERAL SESSIONS.

Before Recorder Hackett.

At the opening of the Court yesterday the case of Jacob Bender, charged with manslaughter, was set down to be tried next Tuesday, and that of August Wood, for murder, on Wednesday.

A "Club" House Keeper Convicted of a Felonious Assault and Remanded for Sentence.

Albert C. Oatman, keeper of a gambling house on Broadway, was tried upon an indictment for felonious assault and battery. The complainant, Michael Mahoney, who said he was "interested in the establishment," testified that on the evening of the 10th of May he went to the defendant, who was standing at his door, and demanded some clothes, which he refused to give him; after the exchange of some angry words Oatman seized and threw him over the railing and cut him four or five times in the face, inflicting serious but not, necessarily, dangerous wounds. The defendant swore that Mahoney approached him from behind with a knife in his hand, and that he (Oatman) used no weapon. Although the testimony was some what conflicting, and Mahoney was proved to be a disorderly character, the jury rendered a verdict of guilty of an assault with a dangerous weapon with intent to do bodily harm. Oatman, who was out on bail, was committed to prison and remanded till Friday for sentence.

Burglaries.

Frank Donar (a youth) charged with burglariously entering the office of Dr. Dwyer, 57 Henry street, on the 17th of November, and stealing $20 worth of wearing apparel, pleaded guilty to an attempt at burglary in the third degree. He was sent to the Penitentiary for eighteen months.

Nathaniel Pangburn pleaded guilty to an attempt at burglary in the third degree, the allegation being that on the 9th of September he burglariously entered the grocery store of Squire R. Barret, and stole $4 in money. The sentence imposed was two years and six months in the State Prison.

A Broadway Pickpocket Sent to Sing Sing for Five Years.

John Smith was convicted of stealing a watch from the pocket of William Wallace, at the corner of Broadway and Fulton street, on the 5th of November. The testimony of the prisoner's guilt was so conclusive that the Recorder sent him to the State Prison for five years. This well merited sentence relieves Broadway of a professional pickpocket.

A Crowd of Youthful Burglars.

Cornelius E. Crow, Edward Handley, Christopher Jewell, Thomas Peterson and Archibald Hadden were charged with burglariously entering the premises of Christian Siegel, in East Seventy-seventh street, on the 20th of November, and stealing a Newfoundland dog, valued at $30, and $10 worth of clothing. These youthful burglars were small boys and were accompanied by their mothers. The Recorder permitted the boys to go, after administering some counsel to their mothers respecting their future behavior.

Grand Larcenies.

Robert White and Joseph Hopkins, charged with grand larceny, pleaded guilty to an attempt to commit that offence. The complaint set forth the fact that on the 16th of October the prisoners entered the store of Howard & Co., 865 Broadway, and stole $239 out of a drawer.

James Whalen tendered a similar plea, the indictment charging that on the 17th of June he stole a ship chain, valued at $500, the property of Thomas Durham and others.

Edward A. Conklin pleaded guilty to an attempt at petit larceny, the charge being that on the 10th of May he embezzled $25 from his employers—Mead, Pearson & Co.

The above prisoners were remanded for sentence.

An Assault Upon a Woman.

Michael Toomey was tried for an assault to commit a rape upon Mrs. Jane Moore, at 290 Seventh avenue, in June last. The prisoner hired a room in her house, and during the absence of Mr. Moore entered the bedroom and inflicted violence upon her, threatening that if she made an alarm he would murder her. The jury found Toomey guilty of an assault with intent to commit a rape. The Recorder, in view of the aggravated nature of the assault, sent the prisoner to Sing Sing for five years.

A Stabbing Affray in a Lager Beer Saloon.

Thomas Sproul, charged with stabbing Charles Meyer at a lager beer saloon in Sixth avenue on the 12th of November, was convicted of assault and battery, the proof showing that Meyer was assaulted by the prisoner and his friend, one of whom used the knife. Sproul was a boy, and the Recorder modified the sentence to imprisonment in the Penitentiary for four months.

James Hughes pleaded guilty to an assault and battery committed upon Philip Herzig, on the 29th of October, and was sent to the Penitentiary for six months.

Adjournment Out of Respect to Horace Greeley.

When Assistant District Attorney Stewart informed the Recorder at a late hour in the afternoon that all the cases on the calendar were disposed of, his Honor said that out of respect to the memory of Mr. Horace Greeley, and in order to afford an opportunity to those whose attendance would be required at the Court to attend the funeral obsequies, the Court would stand adjourned until Thursday morning.

TOMBS POLICE COURT.

Outrage on a Street Car Conductor—Another Phase of the Confidence Game.

On Sunday afternoon last Francis Brady, Hugh Reilly and three other men of one ilk, jumped on the rear platform of a Grand street car going towards Jersey City ferry. The conductor, Charles J. Colby, recognized his passengers and at once called out in a loud voice, "Gentlemen, look out for your pocketbooks; there is a gang of pickpockets on the car." The men got off immediately, but waited on the corner for Colby until the return trip. The whole gang of them jumped on the car near Mott street, and one of them struck the conductor over the eye with a slungshot, inflicting a serious wound. Through the assistance of Detectives Heidelberg and Elder Brady and Reilly were arrested yesterday. The remainder of the gang are still at large. The prisoners were brought before Judge Hogan at the Tombs and fully committed for trial.

ANOTHER.

Edwin N. Colt, Jr., is a citizen of Troy. He came to New York last week on a visit, and accordingly wandered around looking at all there was to be seen. Friday afternoon he was walking through Canal street, and a well-dressed, gentlemanly looking man met him and said, "How are you, Littlejohn? I am glad to see you."

"My name is not Littlejohn, answered Mr. Colt. You are mistaken in the person. My name is Edwin N. Colt. I am from Troy."

Mr. Colt did not walk very far before he met another man, who addressed him familiarly. This time the stranger accostant knew his name. "How are you, Mr. Colt?" said he, "and how are things in Troy?"

Mr. Colt was agreeably surprised. He at once entered into conversation with his new found acquaintance, and accompanied him to 272 Canal street, where he was induced to play at some game where he lost $29 50.

When it was too late Mr. Colt found out he had been duped, and had his genial companion arrested. The prisoner, whose name is John M. Mahon, was arraigned before Judge Hogan yesterday and committed in default of $500 bail to answer.

STABBING AFFRAY.

Charles Hesler, of 75 Mott street, and Thomas Kelly, became engaged in a quarrel yesterday morning in Canal street, and Kelly stabbed Hesler in the stomach with a small pocketknife. Kelly's wound was serious, but not fatal. Heslin was arrested by Officer Stephen McManus, and held to answer by Judge Hogan, in default of $500 bail.

John Brennan, who assaulted Conductor Duffy, of car 98, Third Avenue line, on Monday night, was held to answer, in default of $1,000 bail.

JEFFERSON MARKET POLICE COURT.

Receiver of Stolen Property.

Isaac Lyon, a Polish Jew, keeps a place at 54 Market street, where a great number and variety of articles are huddled together in dingy confusion. Ranging from a camels' hair shawl of great price to a scrap of old iron of no price at all, Isaac's collection forms a curiosity shop far surpassing that described by England's great novelist, notwithstanding the extent and variety of Isaac's wares. Perhaps owing to this his reputation has not been good among the police for some time, it being generally supposed that he was a receiver of stolen goods. Recent transactions have confirmed this view. Some time last week two young men were arrested and committed for trial, charged with burglary, in entering the premises 571 Broadway, and one of these has made revelations seriously implicating Isaac. According to the statement made his course has been extremely wary, dealing, as he has, only with the initiated and those properly recommended. The custom has been for the thieves to take their plunder to a lager beer saloon in the vicinity, whence a messenger was sent to a neighboring butcher's shop of respectable exterior. The people there at once informed Isaac that his presence was desired in the saloon, where, over *zwei lager*, bargains were consummated.

This untoward revelation in connection with certain specified transactions caused Isaac's arrest, and he was yesterday brought up before the Jefferson Market Police Court, and committed without bail for further examination.

THE POLICY DEALERS.

A number of men were brought up before the Jefferson Market Court yesterday, charged with a violation of the Lottery law, but were all discharged for want of evidence, except George Walker, of 476 Hudson street, who was held in the sum of $500 to answer.

THE EMPLOYMENT SWINDLE.

Peter Exter, being in want of a situation, called at the employment office of George Nicolson, 138 Sixth avenue, who assured him that if he would pay $2, and call the following day, he should be provided for. He did call next day and continually thereafter, from the 26th of November to the present, without receiving any satisfaction, wherefore he complains. Nicolson was committed in default of $300 bail to answer.

BROOKLYN COURTS.

SUPREME COURT—CIRCUIT.

The Defunct Central Bank Litigation.

Before Judge Gilbert.

Silas B. Dutcher, as assignee, &c., brings suit against the Importers and Traders' National Bank of New York. The Central Bank used to make the collections in Brooklyn of the Importers and Traders' National Bank of New York. On the 1st of August there was in the Central Bank $20,422 23 to the credit of the Importers and Traders' Bank, of which on that day $19,300 was paid on a draft drawn by the Importers and Traders' Bank. This action is now brought to recover this amount, the plaintiff claiming that the payment of this draft was made with intent to give a preference to the defendant over the other creditors of the Central Bank, and delay and defeat the operation of the bankrupt act.

The defendant claims that the Central Bank was its agent for collection merely and that the funds in the Central Bank were, therefore, trust funds and cannot in law be considered as an indebtedness in the purview of the Bankrupt act.

The defendant also claims that Mr. Dutcher got possession of $3,749 37 when he became assignee of the Central Bank, which was their money, the Central Bank having collected that amount for them on Brooklyn checks, notes and drafts. For this amount judgment is asked for against Mr. Dutcher.

Case on.

CITY COURT—SPECIAL TERM.

Decisions.

By Judge Neilson.

In re Charles D. Landry, a Lunatic, &c.—Order granted confirming inquisition.

In re John H. Bradford, a Lunatic, &c.—The like order granted.

Elizabeth J. Sawyer vs. Edwin H. Sawyer.—Referred to D. B. Thompson to inquire and report as to the matter charged.

Anne Nitze vs. Charles Nitze.—Order of reference granted.

By Judge Thompson.

Frances A. Van Visk vs. The Broadway and Seventh Avenue Railroad Company.—Motion denied, with costs. Opinion on file.

The Late Judge Strong.

On Friday, at two o'clock, a meeting of the Bar will be held in the Supreme Court room to take action with regard to the death of Judge Strong.

Respect to the Memory of Horace Greeley.

All the Courts have adjourned until Thursday out of respect to the memory of the deceased statesman and philosopher.

COURT OF APPEALS.

Decisions.

ALBANY, N. Y., Dec. 3, 1872.

Judgments affirmed, with costs—Ogden vs. The East River Insurance Company; Carpenter vs. Ross; O'Leary vs. Walter; Ocean National Bank of New York vs. Fant; Moncrief vs. Ross.

Judgment affirmed—Gaffney vs. The People, &c.

Judgment reversed and new trial granted, the cost to abide event—Booth vs. The Farmers and Mechanics' National Bank of Rochester.

Judgment reversed and new trial granted, costs to abide the event as to defendant Yulee, and judgment affirmed as to other defendants, with costs—Vose vs. The Florida Railroad Company.

Judgment of Supreme Court and of Sessions reversed and new trial granted—Hught vs. The People, &c.

Order granting new trial reversed and judgment at Circuit affirmed, with costs.—Doubleday vs. Kress.

Order of General Term reversed and that of Special Term affirmed.—People, ex rel. Peterson, vs. Dayton; People, ex rel. Mills, vs. Dayton.

Order affirmed, with costs.—In the matter of Astor to vacate assessment.

Appeals dismissed, with costs—Brown vs. Leigh; Boughton vs. Boughton; Arnold vs. Robertson.

COURT OF APPEALS CALENDAR.

ALBANY, N. Y., Dec., 3, 1872.

The following is the calendar of the Court of Appeals for December 4:—Nos. 517. 194, 119, 89, 358, 384, 490, 491.

THE POSTAL TELEGRAPH.

Interview with Postmaster General Creswell.

HUBBARD'S BILL DISSECTED.

A Good Thing for the Companies, but Bad for the Public.

Advantage of Having the Lines in the Hands of the Government—The Postal Service To Be Improved—Exceptional Advantages to the Press.

WASHINGTON, Dec. 3, 1872.

Your correspondent called upon Postmaster General Creswell this evening to obtain his opinion regarding the different postal telegraph schemes which are going to be pressed upon the attention of Congress during the present session. The main features of Hubbard's bill are contained in all of them, and, therefore, the Postmaster General's remarks were directed to it alone.

Mr. Creswell said:—"The objection to Hubbard's scheme is, that you are not only creating a corporation and giving it certain powers, when I do not see that it will be in a better position to do the service for the people than the Western Union Telegraph Company, and in the end you will have to buy out the company, and as the whole system is expanding day by day the longer you postpone the more expense you will have to go to. In

MR. HUBBARD'S BILL

there is a provision to authorize him to acquire the title of the subsisting companies, and there is no limitation upon the rights of the company which he would create. He can do that upon the best terms attainable. If the government gives the authorization the upshot will be that if this company will fail to cheapen the rates and then afford the facilities which the cheapening itself costs, because of the increased business, the government will be compelled to buy out the Hubbard, and people then will be obliged to recognize the prices which he paid, because it was recognized in his charter. Besides, all the work and responsibility would be upon the government, for which it would derive only a small portion of the receipts—not enough, perhaps, to pay its expenses—when the company would have a handsome profit upon its investments. Experience shows that if you reduce the price fifty per cent you double the messages, and I have no doubt that the rule will hold good until you reduce it to the present rate of postage. Everybody would then use the telegraph instead of the mails. It is no more impossible now to transmit a telegraphic message from

NEW YORK TO SAN FRANCISCO FOR TEN CENTS

than it was deemed to transmit a message by mail from New York to New Orleans when the work was first entered upon for cheapening postage. In case of disagreement the government would not have sufficient control over the lines to have the messages on hand transmitted. All it could do would be to seize the lines and advertise for somebody else to do the same service. In the meantime messages would accumulate by the hundreds of thousands and could not be forwarded. What would be the effect you can imagine. Just suppose the whole mail service were stopped for one day?"

WOULD THE TELEGRAPH BECOME A POLITICAL MACHINE?

Your correspondent then queried, "Would not the postal telegraph become a political machine in the hands of the government?" To which the Postmaster General replied:—"In the first place the number of additional employés would be nothing like as great as has been represented. In about five thousand post offices the same officers who attend to the mails could be telegraph operators; that would, necessarily, impart a higher tone to the service, as they will have to be skilled operators. The other offices, about one thousand five hundred in number, with their branches, would probably require 7,500 persons, all told, including telegraphic operators, as well as messengers. Thus the whole number of persons in the separate telegraph service will only be 7,500 men after combining the duties in some four thousand or five thousand officers. These people must all be skilled operators—even the boys and girls—and they will, therefore, have to be of a superior class. So, instead of lowering the tone of the service, it will necessarily improve it."

EXCEPTIONAL ADVANTAGES TO THE PRESS.

Regarding press rates the Postmaster General said:—"Of course the press would be offered exceptional advantages, inasmuch as the press is regarded as the great educator of the people; but exclusive press despatches and exclusive press association are a monopoly, and both operate against the diffusion of intelligence. While the rates of the press would be a great deal cheaper than they are now, the same privileges would be given to all papers alike, and many of the stronger papers would have the opportunity to rent wires—a system which is working very well in England."

To a further question, whether he felt certain that the postal telegraph would be more advantageous to the public, Mr. Creswell answered:—"I believe in the government doing the work for the benefit of the people. The government has advantages over private enterprises which it ought to wield in the interest of the people; and especially the telegraph, which has just proved itself a practical system far superior to any other, and is more susceptible of improvements in the hands of the government.

THE PROFITS OF THE TELEGRAPH

are large in proportion to the capital invested, and the government would have it in its power to lessen the rates as its business increases and its facilities are extended. If the business of telegraphy is such that the government can do it better for the interest of the people then the government should have the exclusive management of it. If, on the contrary, it can be done better by private enterprise, then it should be left entirely to private enterprise. I think this country, above all others, should have

A NATIONAL TELEGRAPH SYSTEM.

Our political, social and commercial relations would not only be improved and strengthened by means of ready intercommunications; the Republic itself would be strengthened and perpetuated. The government itself, with all its extensive ramifications, and working upon the principle not to make money, but to serve the people, has a double motive for cheapening telegraph rates. In case of war the government would have the power to seize all telegraph lines—in fact, would require an exclusive telegraph of its own."

"This is a somewhat remote contingency," remarked your correspondent.

"True," replied Mr. Creswell, "this is a remote contingency; but he is a poor prophet who says we shall never have a war again."

To the question, "Is the Postal Telegraph measure likely to pass this session?" the Postmaster General made answer:—

"I recommended the appointment of a commission by Congress, consisting of gentlemen of integrity and general knowledge, to set to work and elaborate a plan. To this end they will have to gather information in Europe as well as in the United States—in fact, wherever information is to be had."

Your correspondent again queried:—"Suppose the government bought the Union Telegraph Company lines, would it have to pay for the stock at the market price or at par?"

"That would be determined by appraisement, as it is prescribed by the act of 1866. The cost of the line was $10,000,000, and the intrinsic value of

THE WESTERN UNION TELEGRAPH,

without regard to its good will or its watered stock, could only be the basis of the purchase. Congress would place such safeguards upon the action of the appraisers as to provide whatever they might do shall be subject to their confirmation before the government shall be bound by it. The Western Union Telegraph lines could be replaced at a cost of $10,000,000; for $11,000,000 the government could put up a better system of its own, and by the act of July, 1866, it is empowered to construct telegraph lines without regard to the existing companies. It is certain that in a few years the telegraph will be just as much in the hands of the government as the mails now are."

THE NATIONAL RIFLE ASSOCIATION.

The Board of Directors of the National Rifle Association held their regular monthly meeting at 194 Broadway yesterday afternoon. A report in reference to the proposed shooting park was read, which stated that the same would be finished on or about February 1, 1873. A resolution was offered to the effect that any organization subscribing not less than $2,000 a year to the National Rifle Association should be considered as in affiliation with it and be entitled to all the privileges of members during the year. Designs for prize and membership badges were exhibited, but no action was taken with regard to them. The Board, after the transaction of routine business, adjourned, to meet again on January 3, 1873.